

In Re: Juul Labs, Inc., Marketing, Sales Practices, and Products Liability Litigation

Case No. 19-md-02913-WHO

ORDER REGARDING BELLWETHER SELECTION AND CASE/TRIAL SCHEDULE

Re: Dkt. Nos. 926 and 927

I thank the parties for their revised proposed bellwether selection procedures and case schedules. With some modifications, I will adopt the plaintiffs' suggestions because they are more likely to achieve a representative bellwether trial pool and meet in a realistic manner the aggressive trial schedule that I seek.

Bellwether Selection:

- Cut-off for Bellwether Selection Pool: Any action filed in or transferred to this Court by October 15, 2020 will be included in the bellwether selection pool.
- Selection of Bellwether Discovery Pool: On or before December 15, 2020, a total of 24 personal injury cases will be selected for the initial bellwether discovery pool. Plaintiff will select 6 cases, Defendants will collectively select 6 cases, and the Court will select 12 cases through a random selection process after excluding the 12 cases selected by the parties.
- Core Discovery: Core discovery of the bellwether discovery pool may begin immediately upon selection and will conclude on or before April 15, 2021. Core discovery for each discovery pool case will consist of no more than three case-specific fact witnesses: (1) the plaintiff, (2) a fact witness with knowledge as to plaintiff's JUUL use and/or JUUL-related injury that the parties will meet and confer to determine the appropriate witness, and (3) a treating medical provider who was principally responsible for the diagnosis and treatment

1 of plaintiff's injury if the plaintiff received medical treatment for the injury alleged.

2 • Case Strikes: After core discovery of the bellwether discovery pool, the Defendants
3 (collectively) and Plaintiffs may each strike one case from nominee pool. Each party must
4 exercise its strike by April 22, 2021.

5 • Selection of Bellwether Trials: On April 30, 2021, each party shall simultaneously submit
6 under seal to the Court a letter not to exceed 12 pages identifying four cases from the
7 remaining nominee pool that they contend are representative bellwether trial cases, the
8 basis for their selections, and if appropriate, why the other cases are not representative or
9 suitable bellwether trial candidates. The Court will then select a total of four cases to be set
10 for bellwether trials, prioritizing for trial the order of the cases.¹

11 • Supplemental Fact Discovery: Additional fact discovery of the four bellwether trials may
12 begin immediately after the Court's selection. The supplemental fact discovery for the first
13 two bellwether trials must be completed by July 1, 2021. The deadline for supplemental
14 fact discovery of the remaining two bellwether trial cases will be determined following a
15 meet and confer of the parties, in consultation with the Court.

16 • Expert Discovery of Bellwether Trial Cases: Expert discovery for the first two
17 bellwether trial cases must be completed by September 22, 2021. Specific deadlines related
18 to expert discovery are set forth in Plaintiffs' proposed trial schedule (attached). Deadlines
19 for expert discovery of the two bellwether trial cases will be determined following a meet
20 and confer among the parties, in consultation with the Court.

21
22
23
24
25 ///
26

27

28 ¹ The Court will try each of the bellwether trials in San Francisco and will not select any case for
which *Lexecon* is an issue. We will discuss how to resolve any *Lexecon* disputes at the next Case
Management Conference on September 21, 2020.

1

Case Schedule:

2

Personal Injury (PI) Only:

3

Close of PI bellwether nominee pool (complaints must be on file)

October 15, 2020

4

Government Entity (GE) Only:

5

Deadline for submitting agreed upon or competing proposals for methodology for selecting GE bellwether trial cases

October 15, 2020

6

Government Entity (GE) Only:

7

Close of GE bellwether trial pool (complaints must be on file and PFS must be completed for all potential GE bellwether trial candidates)

November 16, 2020

8

Deadline for PI outstanding PFS

December 15, 2020

9

Deadline for Plaintiffs and Defense to select their PI nominees and provide to the Court (Court will then randomly select eight cases).

10

Deadline to submit agreed or competing GE bellwether nominees

12

Personal Injury Only:

13

Deadline to meet and confer on deferred pleading challenges

January 7, 2021

14

Class Cases Only:

15

- Plaintiffs Serve Class Certification Expert Reports
- Motion for Class Certification (as to California subclass, federal nationwide class, any other state(s) agreed or ordered to be included in first class bellwether trial(s))

March 17, 2021

18

Personal Injury Only:

19

Deadline for bellwether plaintiffs to amend complaints

January 21, 2021

20

Personal Injury Only:

21

Deadline for Defendants to file deferred pleading challenges

February 5, 2021

22

Personal Injury Only:

23

Deadline to oppose deferred pleading challenges

March 1, 2021

24

Personal Injury Only:

25

Deadline to reply to deferred pleading challenges

March 15, 2021

26

Personal Injury Only:

27

Hearing on deferred pleading challenges

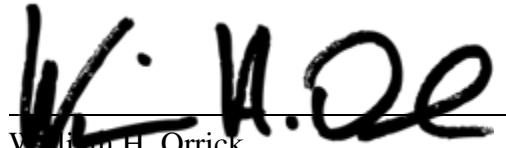
April 2, 2021

28

1	<u>Personal Injury Only:</u> Deadline for the parties to submit their proposed bellwether trial selections to the Court	April 30, 2021
2	<u>Class Cases Only:</u> <ul style="list-style-type: none"> • Opposition to Motion for Class Certification; • Defendants Serve Class Certification Response Reports • Defendants File <i>Daubert</i> Motions for Class Plaintiffs' Class Certification Experts 	June 16, 2021
3	<u>Class Cases Only:</u> <ul style="list-style-type: none"> • Reply in Support of Motion for Class Certification; • Plaintiffs Serve Class Certification Rebuttal Reports • Class Plaintiffs File <i>Daubert</i> Motions for Defendants' Class Certification Experts; • Class Plaintiffs File Oppositions to Defendants' <i>Daubert</i> Motions 	July 14, 2021
4	<u>Class Cases Only:</u> Defendants file Oppositions to Class Plaintiffs' <i>Daubert</i> Motions	July 28, 2021
5	Substantial Completion of Fact Discovery	June 18, 2021
6	<u>Class Cases Only:</u> Hearing on Motion for Class Certification	August 13, 2021
7	Exchange of Generic Expert Reports	July 2, 2021
8	<u>Personal Injury Only:</u> Deadline for supplemental case specific discovery in the First Two Trial Cases	July 1, 2021
9	Exchange of Case-Specific Expert Reports in GE Bellwether Cases	July 1, 2021
10	Exchange of Rebuttal Generic Expert Reports	July 30, 2021
11	Exchange of Case-Specific Expert Reports in First Two PI Trial Cases	July 15, 2021
12	Exchange of Case-Specific Rebuttal Reports in GE and First Two PI BWs	August 16, 2021
13	Close of Expert Discovery (Generic and Case Specific Bellwether GE and First Two PI Trial Cases)	September 22, 2021
14	MSJ and <i>Daubert</i> Motions	September 30, 2021
15	MSJ and <i>Daubert</i> Oppositions	October 29, 2021

United States District Court
Northern District of California

1	MSJ and <i>Daubert</i> Replies	November 12, 2021
2	Oral Argument:	December 10, 2021
3	MSJ and <i>Daubert</i> Motions	
4	Exchange of Civil Local Rule 16-10(b)(7), (8), (9), and (10) Materials	December 15, 2021
5	Pretrial Conference Statement, Jury Instructions, Exhibit List and Objections, Deposition Designations and Objections, and Motions in <i>Limine</i>	January 17, 2022
6	Pretrial Conference (Class, GE and First Two PI Trial Cases)	January 31, 2022
7	First Bellwether²	February 22, 2022
8	Second Bellwether	March 28, 2022
9	Third Bellwether	May 9, 2022
10	Fourth Bellwether	June 20, 2022
11	Fifth Bellwether	August 1, 2022
12		
13		
14		
15		
16	IT IS SO ORDERED.	
17	Dated: September 9, 2020	
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28	² I will determine the order of the bellwether trials after May 1, 2021.	



William H. Orrick
United States District Judge